

STATE OF ARKANSAS
SECURITIES DEPARTMENT

IN THE MATTER OF

EREUNAO OIL & GAS, INC.,
EREUNAO ROYALTY FUND,
CHARLES M. FIFE, JR., President and
Chief Executive Officer,
SHAWN MARCELL, GREG WRIGHT and
ALL PERSONS EMPLOYED BY OR OTHERWISE
AFFILIATED WITH THOSE ENTITIES
OR THOSE PERSONS

No. 00-14-S

CEASE AND DESIST ORDER

The Staff of the Arkansas Securities Department (the Staff) has received information and has in its possession certain evidence which indicates that EREUNAO OIL & GAS, INC., EREUNAO ROYALTY FUND, CHARLES M. FIFE, JR., SHAWN MARCELL and GREG WRIGHT have violated provisions of the Arkansas Securities Act (the Act), codified at Ark. Code Ann. §§ 23-42-101, *et seq.* (Repl. 1994).

FINDINGS OF FACT

1. Ereunao Oil & Gas, Inc., (Ereunao) is a company incorporated under the laws of Delaware on 4 August 1995 with its principal office at 201 Rue Iberville, Suite 504, Lafayette, LA 70508.
2. Ereunao Royalty Fund (the Fund) is a general partnership formed under the laws of the state of Louisiana for the acquisition of royalty interests in oil and gas properties, its managing partner being Ereunao and its principal office at Ereunao's principal office at 210 Rue Iberville, Suite 504, Lafayette, LA 70508.

3. Charles M. Fife, Jr., (Fife) is the president and chief executive officer of Ereunao.
4. Greg Wright (Wright) is the assistant secretary of Ereunao and a salesman for Ereunao in the marketing of units of ownership in the Fund. He is not registered as an agent for a broker-dealer, the issuer or in any other capacity in the securities industry in Arkansas.
5. Shawn Marcell (Marcell) is a sales person employed by Ereunao. He is not registered as an agent for a broker-dealer, the issuer or in any other capacity in the securities industry in Arkansas.
6. In the second week of February, 2000, Marcell contacted an Arkansas resident (Prospect) about investing in the Fund and caused a packet of printed sales materials to be sent to Prospect by overnight delivery. These materials revealed that Ereunao was offering for sale 100 units of ownership in the Fund for \$25,000 each. Even though the Fund was technically a general partnership under Louisiana law, the printed materials, which included a partnership agreement signed by Fife for Ereunao, clearly showed that it would be operated as a limited partnership, Ereunao being the general partner responsible for operations. Fife's expertise in oil and gas exploration business was touted as key to the success of the Fund.
7. On 23 February 2000 Marcell spoke to Prospect on the telephone about these printed materials. In response to Prospect's questions about the past performance of Ereunao, Marcell faxed Prospect a page of references, but no financial statements.
8. Within a week of the 23 February call, Marcell contacted Prospect again by telephone. After a few minutes of conversation, Wright took over the conversation. Wright made a number of noteworthy statements. Wright said that "this particular deal is kind of one of those no-

brainers; it is not something that you lose your money over because of the way that it is built. It is something that you're going to get a return on. The question is to what degree of a return." Wright clarified this statement by saying that he believed that Prospect would get a sixfold or sevenfold return on his investment over nine years. The worst that could happen, Wright said, would be a threefold return on his investment. Wright said that this prediction was based on several factors. First, the Fund had 10 to 12 "massive producing" natural gas wells that would last 15 to 20 years. The production of these wells would give Prospect's initial investment back in approximately 19 months. Second, Wright predicted that the price of gas would rise in the future. This prediction was based on another prediction that the price of oil, to which Wright said the price of natural gas was tied, would stabilize at about \$30 a barrel. Wright said that a problem with the deliverability of natural gas in the face of anticipated increased demand for it would also drive up the price of natural gas. If the price of natural gas rose as Wright predicted, Prospect would realize the sixfold or sevenfold return on his investment. If the price of natural gas remained at current levels, Wright said, Prospect would realize the threefold return.

9. Wright urged Prospect to invest immediately. It was only by investing immediately, Wright stated, that Prospect could attain the sixfold or sevenfold return. "If we get in right now, at this level of production, as the price goes up, we're going to catch the ride," Wright said. "We're sitting at the absolute best time to get in the network. There is no better time," he added.

10. Wright stated that there were two risks involved. The first risk was management. If management were to steal the money Prospect would invest and use it for personal uses, the project would not work, Wright opined. The second risk Wright said was the life expectancy of the wells. This risk was lessened, Wright said, because the wells in which the Fund was investing were “being produced by Exxon, Texaco, Chevron, some of the largest oil and gas companies in the country.”
11. Among the printed materials sent to Prospect was a private placement memorandum (PPM). It is stated in the front of the PPM that partnership units in the Fund were being offered for \$25,000 each and that the units were not registered as securities under the Securities Act of 1933 and are offered “in reliance upon the exemption from such registration provided by section 4(2) of the Act and/or Regulation D and Rule 505 and 506 promulgated thereunder.”
12. In the PPM 21 risk factors are listed. Of these 21 risks, only the third listed risk, “Partnership’s Success Dependent on Management,” was mentioned by Wright in his telephone conversation with Prospect. A significant risk factor not mentioned by Wright but listed in the PPM is the eleventh listed factor, “Conflicts of Interest.” This risk is also given a separate section in the PPM apart from the list of risk factors. Ereunao, as the managing partner in the Fund, discloses in these sections of the PPM that it will be managing other partnerships buying royalty interests as well as engaging in such activities for its own account. Such varied activities could and would lead to conflicts of interests. Although Ereunao assures prospective investors that it will “carefully consider its duty” to the Fund and other partnerships it might manage “in an effort to avoid any conflict that would be injurious”

to the Fund, such conflicts are said to be inherent in the structure of the Fund. “For that reason, the potential for abuse from the types of conflict of interest discussed herein exists and should be recognized by a prospective investor.”

13. On page 1 of the PPM it is stated in all capital letters that “This investment involves a high degree of risk” and that “the purchase of an interest should be considered only by persons who can afford a total loss of their investment.” On page 7 of the PPM, at the end of the Introductory Statement, it is stated in all capital letters that “This offering involves certain speculative considerations,” and, therefore, “No person should purchase the units that are offered hereby unless that person is financially able to sustain a total loss of the person’s investment.”
14. It is also stated in the Introductory Statement of the PPM that the Fund “owns no properties nor does it have any specifically identified properties it plans to place” in the Fund. According to this statement, the Fund “expects to acquire oil and gas interests in broad geographical regions” expected to contain oil and gas reserves and did not intend to limit its property purchases to any particular state.

CONCLUSIONS OF LAW

15. Ark. Code Ann. § 23-42-102(15)(A)(xi) (Supp. 1999) in pertinent part defines a security as an investment contract.
16. Ark. Code Ann. § 23-42-501 (Repl. 1994) provides that it is unlawful for any person to offer or sell any security which is not registered or which is not exempt from registration under the terms of the Act.

17. Ark. Code Ann. § 23-42-301(a) (Repl. 1994) prohibits as unlawful the transaction of business as a broker-dealer or agent by any person who is not registered with the Arkansas Securities Department as such.
18. Ark. Code Ann. § 23-42-507(2) (Repl. 1994) provides that it is unlawful for any person in connection with the offer or sale of any security to make any untrue statement or omit to state a material fact necessary in order to make the statements made not misleading in light of the circumstances under which they are made.

OPINION

19. This matter has been properly brought before the Arkansas Securities Commissioner in accordance with Ark. Code Ann. §§ 23-42-201 and 209 (Repl. 1994).
20. It appears that the Fund will be operated by one manager, Ereunao; the investors would play basically a passive role and would not be involved in the day-to-day operations of the Fund; investors need not have the expertise or experience necessary to run the Fund; and there are too many investors for them to have any meaningful input into the management of the Fund. Therefore, because the investors will be involved in a common enterprise with the expectation of profits to be produced only from the managerial efforts of others, the ownership units in the Fund offered for sale by the respondents herein are investment contracts as defined at Ark. Code Ann. § 23-42-102(15)(A)(xi) (Supp. 1999).
21. Fife, Marcell, Wright and Ereunao have offered to sell investment contracts in the form of ownership units in the Fund, a general partnership, which are securities, without prior registration of those securities in violation of Ark. Code Ann. § 23-42-501 (Repl. 1994).

22. Fife, Marcell, Wright and Ereunao offered to sell ownership units in the Fund, a general partnership, which are securities, without being registered with the Department as a broker-dealer, an agent of a broker-dealer or an agent of the issuer in violation of Ark. Code Ann. § 23-42-301(a) (Repl. 1994).
23. Wright's statement to Prospect set out in ¶ 7, *supra*, that Prospect could not lose money on this investment without objective, verifiable information supporting such assertions and in contradiction to the printed materials sent to Prospect was the omission of material facts in violation of Ark. Code Ann. § 23-42-507(2) (Repl. 1994).
24. Wright's statement to Prospect set out in ¶ 8, *supra*, that the Fund already had 10 to 12 "massive producing" natural gas wells that would last 15 to 20 years and Wright's statement to Prospect set out in ¶ 10, *supra*, that the wells in which the Fund was investing were produced by Exxon, Texaco, Chevron and other large oil companies were fraudulent and misrepresentations of fact in violation of Ark. Code Ann. § 23-42-507(2) (Rep. 1994) in light of information in the sales materials that the Fund owned no interests in any oil or gas wells.
25. Wright's statements to Prospect set out in ¶ 8, *supra*, that Prospect could expect to realize a threefold return of his investment if the price of natural gas did not increase and a sixfold or sevenfold return of his investment if it did increase without objective, verifiable information supporting such assertions was the omission of material facts in violation of Ark. Code Ann. § 23-42-507(2) (Repl. 1994).
26. Wright's statement to Prospect set out in ¶ 9, *supra*, that Prospect needed to invest immediately in order to realize the higher sixfold or sevenfold return on his investment

without objective, verifiable information supporting such assertions was the omission of material facts in violation of Ark. Code Ann. § 23-42-507(2) (Repl. 1994).

27. Wright's failure to inform Prospect of only one of the 21 listed risk factors set out in the printed materials sent to Prospect was the omission of material facts in violation of Ark. Code Ann. § 23-42-507(2) (Repl. 1994).

ORDER

IT IS THEREFORE ORDERED that EREUNAO OIL & GAS, INC., EREUNAO ROYALTY FUND, CHARLES M. FIFE, Jr., SHAWN MARCELL and GREG WRIGHT, as well as others whose identities are not yet known who are in positions of control of EREUNAO OIL & GAS, INC. or EREUNAO ROYALTY FUND and who are employed by or otherwise affiliated with EREUNAO OIL & GAS, INC. or EREUNAO ROYALTY FUND or enterprises associated with those business entities, CHARLES M. FIFE, Jr., SHAWN MARCELL or GREG WRIGHT, directly or through other companies, **CEASE AND DESIST** from any further actions in the State of Arkansas in connection with the offer and sale of the securities described above until such time as the securities are properly registered or exempted from registration pursuant to the Arkansas Securities Act and the persons offering them for sale are properly registered pursuant to the Arkansas Securities Act.

WITNESS MY HAND AND SEAL this 13th day of April, 2000.



Mac Dodson
ARKANSAS SECURITIES COMMISSIONER